

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric Company (U-902-E) for Adoption of an Advanced Metering Infrastructure Deployment Scenario and Associated Cost Recovery and Rate Design.

Application 05-03-015
(Filed March 15, 2005)

**ADMINISTRATIVE LAW JUDGE'S RULING
REGARDING NOTICE OF INTENT TO CLAIM COMPENSATION**

1. Summary

This ruling responds to the Utility Consumers' Action Network (UCAN) and The Utility Reform Network's (TURN) notice of intent (NOI) to claim compensation in this proceeding. After consultation with the Assigned Commissioner, I find UCAN and TURN eligible to claim compensation pursuant to Pub. Util. Code § 1804.¹

2. NOI Requirements

2.1. Timely Filing

Under § 1804(a)(1), "[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve on all parties to the proceeding a notice of intent to claim compensation." The prehearing conference in this proceeding occurred on June 15, 2005. The due

¹ All statutory references are to the Public Utilities Code.

date for NOIs was July 15, 2005. UCAN filed its NOI on July 8, 2005 and its NOI is timely. TURN filed its NOI on July 15, 2005 and its NOI is timely.

2.2. Customer Status

Pursuant to Decision (D.) 98-04-059, this ruling must determine whether the intervenor is a customer, as defined in § 1802(b), and identify whether the intervenor is (1) a participant representing consumers, (2) a representative authorized by a customer, or (3) a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers.

UCAN meets the third definition of customer, as set forth in § 1802(b): it is an organization authorized by its articles of incorporation² to represent the interests of consumers, a portion of which are residential customers.

TURN meets the third definition of customer, as set forth in § 1802(b): it is an organization authorized by its articles of incorporation³ to represent the interests of consumers, a portion of which are residential customers.

² D.98-04-059 directed intervenors either to file their articles of incorporation with the NOI, or to provide a reference to a previous filing. (*Id.* at 30.) UCAN chose the latter alternative, referring to articles of incorporation it filed with its NOI in Rulemaking 98-12-015. UCAN has approximately 36,000 dues paying members, the majority of which it believes to be residential ratepayers. UCAN does not poll its members to determine whether they are residents or small businesses, so no percentage split is available as required by D.98-04-059, Finding of Fact 12.

³ D.98-04-059 directed intervenors either to file their articles of incorporation with the NOI, or to provide a reference to a previous filing. (*Id.* at 30.) TURN chose the latter alternative, referring to articles of incorporation it filed with its NOI in Application (A.) 98-02-017 and again in A.99-12-024. TURN has approximately 25,000 dues paying members, the majority of which it believes to be residential ratepayers. TURN does not poll its members to determine whether they are residents or small businesses, so no percentage split is available as required by D.98-04-059, Finding of Fact 12.

2.3 Significant Financial Hardship

Only those customers for whom participation or intervention would impose a significant financial hardship may receive intervenor compensation. Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI. Alternatively, the customer may make the required showing in the request for an award of compensation.

“Significant financial hardship” means (1) either that the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation, (2) or that, in the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding. (Section 1802(g).)

In order to determine whether UCAN is eligible for compensation, we must find that the economic interest of the individual members of the UCAN is small in comparison to the costs of effective participation in the proceeding. UCAN has elected not to make that showing here. Instead, it relies on a rebuttable presumption of eligibility: Assigned Administrative Law Judge (ALJ) Long found that UCAN had satisfied the significant financial hardship test on June 28, 2005 in Application (A.) 05-02-019. The present proceeding commenced on March 15, 2005, within one year of the A.05-02-019 finding. Therefore, in accordance with § 1804(b)(1), the rebuttable presumption created in A.05-02-019 is applicable here. If any party attempts to rebut this presumption, UCAN is granted leave to furnish evidence of its significant financial hardship within 10 days of the rebuttal’s filing.

In order to determine whether TURN is eligible for compensation, we must find that the economic interest of the individual members of the TURN is small in comparison to the costs of effective participation in the proceeding. TURN has elected not to make that showing here. Instead, it relies on a rebuttable presumption of eligibility: Assigned ALJ Wetzell found that TURN had satisfied the significant financial hardship test on July 27, 2004 in Rulemaking 04-04-003. The present proceeding commenced on January 20, 2005, within one year of the R.04-04-003 finding. Therefore, in accordance with § 1804(b)(1), the rebuttable presumption created in R.04-04-003 is applicable here. If any party attempts to rebut this presumption, TURN is granted leave to furnish evidence of its significant financial hardship within 10 days of the rebuttal's filing.

2.4 Nature and Extent of Planned Participation

Section 1804(a)(2)(A)(i) requires NOIs to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted. UCAN states that it expects to be active in presenting testimony, cross-examination, and briefing in order address issues relating to the cost-effectiveness of SDG&E's proposal, the appropriateness of the communications platform, and the anticipated customer response to the AMI deployment. TURN states that it will likely file testimony and participate actively through cross-examination and briefing in order to ensure that SDG&E's proposal provides quantifiable cost-effective benefits to customers and does not result in burdening customers with inappropriate financial risk.

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive.

UCAN estimates the following as potential compensation amounts:

Amount	Description
\$ 60,000	200 hours of professional time by UCAN attorney Michael Shames at \$300/hour
\$ 90,000	300 hours of professional time by attorney Alan Mansfield at \$300/hour
\$ 220,000	Consultant expenses
\$ 8,500	Other direct expenses
\$ 378,500	Total

TURN estimates the following as potential compensation amounts:

Amount	Description
\$ 30,000	200 hours of professional time by TURN attorney Nina Suetake at \$150/hour
\$ 10,800	40 hours of professional time by TURN attorney Marcel Hawiger at \$270/hour
\$ 20,000	Consultant expenses
\$ 1,000	Other direct expenses
\$ 61,800	Total

TURN notes that it has incurred costs (approximately \$40,000) related to its work to evaluate SDG&E's preliminary business case analysis in R.02-06-001. TURN states, "Such work is directly related to the evaluation of SDG&E's AMI application, since SDG&E's AMI business case is an update of the preliminary business case filed in R.02-06-001, and the work can be allocated properly to SDG&E." (NOI, p. 4.) I agree and find that TURN may make its request for compensation for its work to evaluate SDG&E's preliminary business case in this proceeding, subject, of course, to an evaluation of significant contribution. At this point, I find that compensation requests for work related to the general business

case framework and the Statewide Pricing Pilot program design and funding levels should be made in R.02-06-001.

UCAN and TURN satisfactorily present itemized estimates of the compensation they each expect to request. Like any intervenor, UCAN and TURN must fully support their ultimate requests for compensation, including substantiating that they have made a substantial contribution, and the reasonableness of the hours spent and hourly rates.

IT IS RULED that:

1. Utility Consumers' Action Network (UCAN) has met the eligibility requirements of Pub. Util. Code § 1804(a). UCAN is a customer as that term is defined in § 1802(b) and is a group or organization that is authorized to represent the interests of residential ratepayers.
2. UCAN has established a rebuttable presumption of significant financial hardship. If any party attempts to rebut the presumption, UCAN is granted leave to establish its significant financial hardship within 10 days of the rebuttal's filing.
3. The Utility Reform Network (TURN) has met the eligibility requirements of Pub. Util. Code § 1804(a). TURN is a customer as that term is defined in § 1802(b) and is a group or organization that is authorized to represent the interests of residential ratepayers.
4. TURN has established a rebuttable presumption of significant financial hardship. If any party attempts to rebut the presumption, TURN is granted leave to establish its significant financial hardship within 10 days of the rebuttal's filing.

5. TURN may make its request for compensation for its work to evaluate SDG&E's preliminary business case filed in Rulemaking 02-06-001 in this proceeding.

6. A finding of eligibility in no way assures compensation.

Dated July 20, 2005, at San Francisco, California.

/s/ MICHELLE COOKE

Michelle Cooke
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Notice of Intent to Claim Compensation on all parties of record in this proceeding or their attorneys of record.

Dated July 20, 2005, at San Francisco, California.

/s/ ELIZABETH LEWIS
Elizabeth Lewis

N O T I C E

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